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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,348	03/12/2004	Kevin J. Dowling	C1104-7122.30	6210

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EXAMINER
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FLANAGAN, BEVERLY MEINDL

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/799,348	Applicant(s) DOWLING ET AL.	
	Examiner Beverly M. Flanagan	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Beverly M. Flanagan*  
**BEVERLY M. FLANAGAN**  
**PRIMARY EXAMINER**

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
     Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "control facility" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Cline et al. (U.S. Patent No. 6,821,245).

**In regard to claims 17 and 19**, Cline et al. teach an endoscopy video system 50 comprised of a multimode light source 52 that generates white light and an excitation

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light in various modes (see Figure 1 and col. 3, lines 60-67). A controller 64 is part of the system 50 and is responsive to operator input (see Fig. 1 and col. 7, lines 10-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline et al. (U.S. Patent No. 6,821,245) in view of Ruegg et al. (U.S. Patent No. 6,626,824).

**In regard to claims 1 and 9**, Cline et al. teach an endoscopy video system 50 comprised of a multimode light source 52 that generates white light and an excitation light in various modes (see Figure 1 and col. 3, lines 60-67). A controller 64 is part of the system 50 and is responsive to operator input (see Fig. 1 and col. 7, lines 10-15). However, Cline et al. are silent as to a tool on the endoscope 60 of the system 50. Ruegg et al. disclose an exchangeable tool assembly 10 for an endoscope where a channel 62 in the device guides the tool assembly 10 (see Figure 1). Various tools can make up the tool assembly, as shown at col. 6, lines 5-20. Ruegg et al. thus demonstrate that exchangeable tool assemblies for an endoscope are well known in the art and furthermore, that passing the tool down a channel in the endoscopic device is also well known in the art. Accordingly, it would have been obvious for one of ordinary

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skill in the art at the time the invention was made to provide the endoscope 60 in the system 50 of Cline et al. with an exchangeable tool assembly and a channel for passing such a tool, in the manner disclosed by Ruegg et al.

Claims 2, 3, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline et al. (U.S. Patent No. 6,821,245) in view of Kim et al. (U.S. Patent No. 6,702,734).

**In regard to claims 2 and 10**, Cline et al. teach a preferred embodiment with the light source 52 comprises an arc lamp 70 surrounded by a reflector 72, but states that alternative light sources may be used (see col. 4, lines 8-17). Kim et al. disclose an endoscope 200 having a light emitting diode (LED) for illumination (see Figure 2 and col. 3, lines 50-65). Kim et al. thus demonstrate that LEDs are well known in the endoscope art for providing illumination. Accordingly, since Cline et al. teach the use of alternative light sources, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the light source 52 of Cline et al. an LED, in the manner disclosed by Kim et al. **In regard to claims 3 and 11**, A controller 64 is part of the system 50 and is responsive to operator input (see Fig. 1 and col. 7, lines 10-15).

Claims 4-8 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline et al. (U.S. Patent No. 6,821,245) in view of Kim et al. (U.S. Patent No. 6,702,734) and further in view of Ruegg et al. (U.S. Patent No. 6,626,824).

**In regard to claims 4-8 and 13-16**, Cline et al. teach an endoscopy video system 50 comprised of a multimode light source 52 that generates white light and an excitation light in various modes (see Figure 1 and col. 3, lines 60-67). A controller 64 is part of the system 50 and is responsive to operator input (see Fig. 1 and col. 7, lines 10-15). However, Cline et al. are silent as to a tool on the endoscope 60 of the system 50. Ruegg et al. disclose an exchangeable tool assembly 10 for an endoscope where a channel 62 in the device guides the tool assembly 10 (see Figure 1). Various tools can make up the tool assembly, as shown at col. 6, lines 5-20. Ruegg et al. thus demonstrate that exchangeable tool assemblies for an endoscope are well known in the art and furthermore, that passing the tool down a channel in the endoscopic device is also well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the endoscope 60 in the system 50 of Cline et al. with an exchangeable tool assembly and a channel for passing such a tool, in the manner disclosed by Ruegg et al.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline et al. (U.S. Patent No. 6,821,245) in view of Wang et al. (U.S. Patent No. 6,646,541).

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**In regard to claims 18 and 20**, Cline et al. teach a controller 64 that is part of the system 50 and is responsive to operator input (see Fig. 1 and col. 7, lines 10-15). Wang et al. disclose a control system 10 for a surgical instrument having a voice control interface 32 that recognizes speech from a user (see col. 5, lines 5-35). Wang et al. thus demonstrate that voice recognition interfaces for controlling medical devices are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the system 50 of Cline et al. with a voice recognition interface, such as the one disclosed by Wang et al., for providing commands to the controller 64.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should note the following prior art references teaching light source devices for an endoscope: Tomioka et al., U.S. Patent No. 6,139,175; Koshikawa et al., U.S. Patent No. 6,254,264 and Sendai et al., U.S. Patent No. 6,468,204.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Wednesdays and Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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